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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,863	08/20/2001	Kazuhiko Nobe	Q65711	3533

7590 06/18/2003  
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3213

EXAMINER

MENDOZA, ROBERT J

ART UNIT PAPER NUMBER

3713

DATE MAILED: 06/18/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

8C

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/931,863		NOBE ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Robert J Mendoza		3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 14 April 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-4, 6 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (USPN 6,227,968).**

Suzuki discloses, in col. 9:6-15, an acquisition unit operative to acquire game operation timing at which each of the first and the second player operates the game. Suzuki discloses, in col. 9:6-26 & col. 9:38-59, a data memory operative to memorize timing data that defines game operation timing at which each of the first player and the second player is required to operate the game. Suzuki discloses a game system for providing each of a first player and a second player with a game allowing a player to enjoy operation of the game using a controller according to game music comprising timing acquisition means for acquiring game operation timing at which each of the first player and the second player operates the game, a timing data memory means memorizing timing data defining game operation timing at which each of the first player and the second player is required to operate the game, a timing guidance means for presenting the game operation timing defined by the timing data to each of the first player and the second player, a game operation evaluation means for verifying the game operation timing acquired by the timing acquisition means with game operation timing defined by the timing data to evaluate game

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operation by each of the first and the second player, and a operation changing means for presenting game operation timing different from the game operation timing defined by the timing data to at least one of the first player and the second player based on a result of evaluation made by the game operation evaluation means by disclosing in col. 15:4-15, the construction is formed in such a way that the guidance means comprises stepping operation instruction content storage means for storing a plurality of types of stepping operation instruction contents having different levels of difficulty, and a stepping operation instruction having a level of difficulty corresponding to the evaluation result from the evaluation means is selectively output from the stepping operation instruction content storage means. This makes it possible to provide a stepping operation instruction of a level corresponding to the dancing ability of the player, making it possible for both a novice and an experienced person to enjoy this game. Suzuki discloses the timing guidance means shows each of the first and the second player a first operation timing instruction image and a plurality of second operation timing instruction images gradually approaching the first operation timing instruction image displayed on a display screen, to thereby show a state in which game operation timing is arriving, and the operation timing change means increases or decreases a number of second operation timing instruction images approaching the first operation timing instruction image with respect to the first player or the second player, to thereby increase or decrease a number of game operation timing to be presented to the first player and the second player by disclosing in col. 9:60-67 & 1-5 and col. 42-48, when the initial two sets of data of the stepping position indication data is set, one set of data of them is scrolled and displayed as the stepping position indication mark M on the display surface in such a manner as to be superposed on the background dance image D. When the scroll

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display of each stepping position indication mark is started, a monitoring process by the amount-of-deviation detection/totaling section is performed. When the score is 20 points, for the one set of data to be set next, one set of data whose level of difficulty is decreased by one rank with respect to this rank is set, and also for the dance image D to be set next, a dance image whose level of difficulty is decreased by one rank with respect to this rank is set.

### **Response to Arguments**

Applicant's arguments filed 4/14/03 have been fully considered but they are not persuasive. The Applicant argues that **Suzuki does not disclose a competition between two persons and an evaluation of their competitive performance**. The Examiner respectfully disagrees. The Applicant explains in the specification, page 30, lines 5-11, "a level for timing guidance can be changed based on the result of evaluation on each player's stepping step performance. Alternatively, a higher number of step times than that which is originally defined by step timing may be presented to a player to request him to step more. As described above, a *feeling* of competitiveness between players can be increased". Nevertheless, Suzuki explicitly discloses, in col. 9:6-12, FIG. 9 shows a case of two-person play. In this figure, as the stepping position indication marks on the right and left, the same marks are displayed. However, with the *progress* of the game, marks of levels of difficulty, which are *different individually*, are *set* on the basis on the *evaluation* for *each* player, and in accordance therewith, the *level* of difficulty of the dance image is *changed*. Suzuki is clearly introducing a point of competitiveness between two players by allowing the players to compare their levels of difficulty after the dancing evaluation process. The player who attains a higher level of difficulty at the conclusion of the

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game is visibly the winner. Therefore, Suzuki does disclose a competition between two persons and an evaluation of their competitive performance.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to dance game systems:

USPN 6,116,908 Takai discloses a dance-training device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached at (703) 308-2126.

RM

RM

June 16, 2003



Paul T. Sewell  
Supervisory Patent Examiner  
Group 3700